

Message Text

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DRAFTED BY L/SCA:HRGAITHER:EDD

APPROVED BY L - M. LEIGH

EUR/CE - MR. B. FLATIN

TREASURY - MR. J. CLAWSON (INFO)

JUSTICE - MR. J. KEENEY (INFO)

SEC - MR. I. PEARCE (INFO)

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FM SECSTATE WASHDC

TO AMEMBASSY BERN IMMEDIATE

INFO AMCONSUL ZURICH

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E.O. 11652: N/A

TAGS: PFOR, CFED, SZ (JUDICIAL ASSISTANCE TREATY)

SUBJECT: U.S./SWISS JUDICIAL ASSISTANCE TREATY.

1. EMBASSY SHOULD BE AWARE THAT SUNDAY, FEBRUARY 23, AMERICAN BAR ASSOCIATION (ABA) SECTION ON CRIMINAL JUSTICE VOTED AGAINST REPEAT AGAINST RATIFICATION OF U.S./SWISS TREATY.

2. RESOLUTION FAVORING RATIFICATION SPONSORED BY SECTION ON INTERNATIONAL LAW WILL NOW BE ENTERTAINED BY ABA HOUSE OF DELEGATES AT MEETING THIS (FEB. 24) A.M. IN CHICAGO. OUR INFORMATION IS THAT ABA MAY VOTE AGAINST RATIFICATION ON BASIS RECOMMENDATION CRIMINAL JUSTICE SECTION.

3. ONE SOLUTION TO CRIMINAL JUSTICE SECTION'S CONCERN WAS TO RESERVE WHEN RATIFYING TREATY TO EFFECT THAT USG
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WOULD NOT EMPLOY PROVISIONS RELATING TO USE OF GRAND JURY

IN REQUESTS FROM SWISS. ROBERT COLE, FORMER MEMBER OF U.S. NEGOTIATION TEAM AND NOW IN PRIVATE PRACTICE, IS ATTENDING MEETING AND WILL ARGUE THAT COMMITMENT TO RESERVE WOULD PUT U.S. IN AWKWARD NEGOTIATING POSITION WITH SWISS IN OUR EFFORTS TO RESOLVE PROBLEM RAISED BY ARTICLE 26:2 OF SWISS IMPLEMENTING LEGISLATION.

4. SIGNIFICANCE OF VOTE AGAINST RATIFICATION IS THAT MEMBER ABA ATTORNEYS WILL NOT TESTIFY IN SENATE IN FAVOR OF TREATY ON BEHALF OF ABA.

5. WILL INFORM EMBASSY ASAP WHEN VOTE OF HOUSE OF DELEGATES TAKEN.

6. PRESS GUIDANCE AND INSTRUCTIONS RE RAISING MATTER WITH GOS WILL FOLLOW AFTER VOTE TAKEN. KISSINGER

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